

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.962 of 2009
and
MP.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Kumbakonam Town,
Kumbakonam.Appellant/Respondent

.Vs.

1.Thangam
2.Azhagiri
3.Muthupandian (Minor)
(minor represented by mother and
guardian, the first respondent) ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 25.08.2008 passed in MCOP.No.847 of 2003 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court (Fast Track Court No.1), Chidambaram.

For Appellant : Mr.N.Anand

For Respondents : Mr.T.Gobinath
for M/s.Royan Law Associates
for R2
No appearance for R1 and R3

J U D G M E N T

The Managing Director, Tamil Nadu State Transport Corporation, the respondent in MCOP.No.847 of 2003 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court (Fast Track Court No.1), Chidambaram has filed the present appeal. The respondents / claimants filed the above claim petition under Section 166 (1) of the Motor Vehicles Act, 1988 seeking compensation of Rs.6,00,000/- for the death of one Pandian, husband of the first claimant and father of the claimants 2 and 3 in a road accident on 07.02.2002.

2. The case of the claimants in nutshell is as follows:

On 07.02.2002, the deceased Pandian was travelling as a passenger in a bus bearing Registration No. TN 49 0763 belonging to the Tamil Nadu State Transport Corporation and when he attempted to alight the bus at Chidhambaram Central bus stand, the driver of the bus moved the bus rashly and negligently, as a result whereof, the deceased Pandian fell down and was run over by the bus. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Tamil Nadu State Transport Corporation was the cause of the accident and therefore they are liable to pay compensation.

3. The learned Additional District and Sessions Judge (Fast Track Court No.1) / Motor Accidents Claims Tribunal, Chidhambaram while awarding a compensation of Rs.5,94,000/- together with interest at the rate of 7.5% per annum to the claimants, also concluded that the driver of the bus was rash and negligent in driving his vehicle. Questioning the quantum of compensation awarded by the Tribunal, the Managing Director, Tamil Nadu State Transport Corporation has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.N.Anand, learned counsel appearing for the appellant contended that though the claimants did not adduce any evidence to show the actual income of the deceased, the Tribunal fixed an exorbitant amount of Rs.4,500/- as monthly income of the deceased. He therefore prayed for scaling down the compensation awarded by the Tribunal.

5. Per contra, Mr.T.Gobinath, learned counsel appearing for the second respondent contended that the Tribunal after considering all the aspects of the case has awarded a just and reasonable compensation and therefore, the same need not be disturbed at this stage.

6. In the instant case, it is contended that the deceased was self employed, earning a sum of Rs.250/- to 300/- per day. The accident took place on 07.02.2002. Considering the year of the accident, the notional monthly income fixed by the Tribunal as Rs.4,500/- cannot be found fault with. The award passed by the Tribunal cannot also said to be excessive and therefore, the appeal is dismissed.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The orders passed by the Tribunal is upheld.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

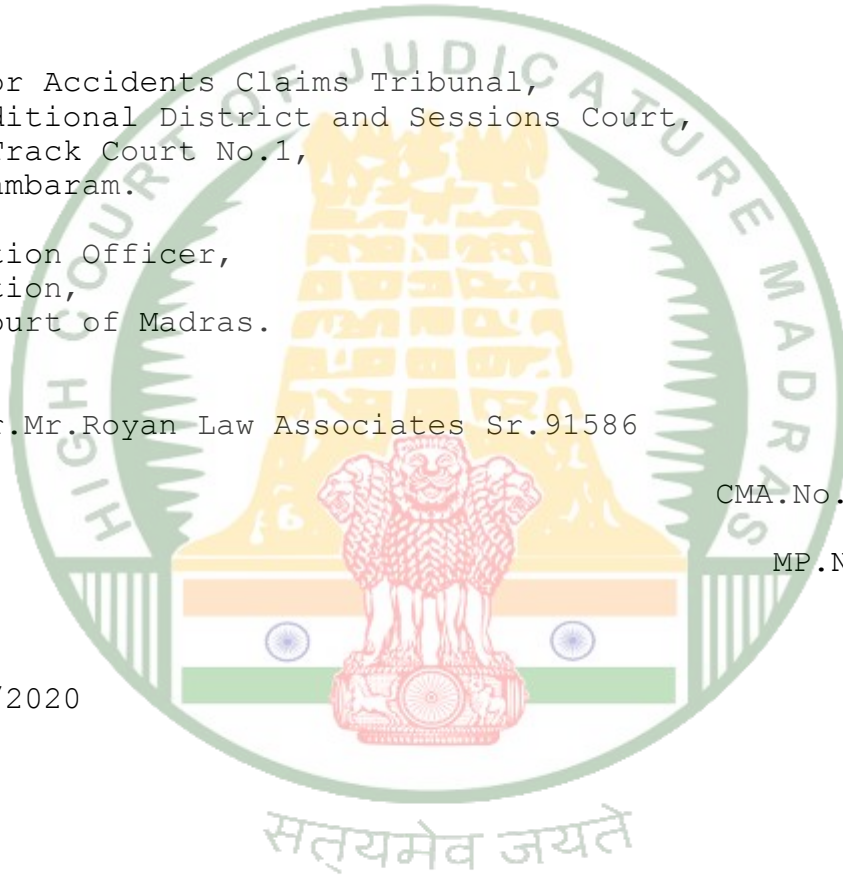
1.The Motor Accidents Claims Tribunal,
The Additional District and Sessions Court,
Fast Track Court No.1,
Chidhambaram.

2.The Section Officer,
VR Section,
High Court of Madras.

+1cc to Mr.Mr.Royan Law Associates Sr.91586

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